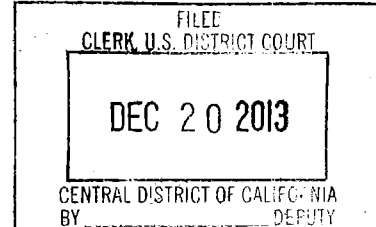


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8



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UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 HUNTER MOORE and
16 CHARLES EVENS,
aka "Gary,"

17 Defendants.
18
19

No. 13-

CR13-0917

GOVERNMENT'S EX PARTE APPLICATION
FOR ORDER SEALING INDICTMENT AND
ARREST WARRANT; MEMORANDUM OF
POINTS AND AUTHORITIES;
DECLARATION OF WENDY T. WU

UNDER SEAL

20
21 The government hereby applies ex parte for an order directing
22 that the indictment, the arrest warrants, and any related documents
23 in the above-titled case, together with this ex parte application,
24 and this Court's sealing order, be kept under seal until further
25 order of the Court.

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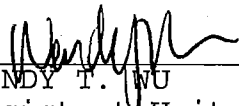
1 This ex parte application is made pursuant to Federal Rule of
2 Criminal Procedure 6(e)(4) and is based on the attached memorandum
3 of points and authorities and the attached declaration of Wendy T.
4 Wu.

5
6 DATED: December 19, 2013

Respectfully submitted,

7 ANDRÉ BIROTTE JR.
8 United States Attorney

9 ROBERT E. DUGDALE
10 Assistant United States Attorney
11 Chief, Criminal Division

12 
WENDY T. WU
13 Assistant United States Attorney

14 Attorneys for Plaintiff
15 UNITED STATES OF AMERICA
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 The government requests that this Court seal the indictment and
3 arrest warrants in this case in order to maintain the integrity of
4 this investigation. Approval from this Court to seal these
5 documents is required under Local Rule 79-5.1. The Court of Appeals
6 for the Ninth Circuit has held that district courts have the
7 inherent power to seal affidavits in support of warrants. In re
8 Sealed Affidavit (Agosto), 600 F.2d 1256 (9th Cir. 1979) (per
9 curiam); see also Offices of Lakeside Non-Ferrous Metals, Inc., 679
10 F.2d 778 (9th Cir. 1982) (citing Agosto).

11 The Court of Appeals for the Seventh Circuit has rejected the
12 proposition that pre-indictment disclosure of a search warrant
13 affidavit is required under either constitutional principles or
14 Federal Rule of Criminal Procedure 41(g). In re EyeCare Physicians
15 of America, 100 F.3d 514 (7th Cir. 1996). In doing so, the Seventh
16 Circuit held:

17 By the very nature of a secret criminal investigation of this
18 type, the target of an investigation more often than not
19 remains unaware of the specific grounds upon which a warrant
20 was issued. If preindictment disclosure of sealed warrant
21 affidavits was required to satisfy due process (assuming there
22 has been a predicate deprivation of life, liberty or property),
the hands of law enforcement would be needlessly tied and
investigations of criminal activity would be made unduly
difficult if not impossible.

23 Id. at 517. Accord In re Grand Jury Proceedings, 115 F.3d 1240,
24 1247 (5th Cir. 1997).

25 Here, for the reasons described in the attached declaration,
26 sealing is necessary to maintain the integrity of the government's
27 investigation. The government accordingly requests that the
28

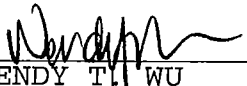
documents described in the attached declaration be maintained under seal until further order of the Court.

DATED: December 19, 2013

Respectfully submitted,

ANDRÉ BIROTTE JR.
United States Attorney

ROBERT E. DUGDALE
Assistant United States Attorney
Chief, Criminal Division


WENDY T. WU
Assistant United States Attorney

Attorneys for Plaintiff
UNITED STATES OF AMERICA

DECLARATION OF WENDY T. WU

I, Wendy T. Wu, declare as follows:

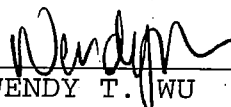
1. I am an Assistant United States Attorney for the Central District of California. I represent the government in the prosecution of United States v. Hunter Moore and Charles Evens, in which the government has obtained an indictment and arrest warrants against the defendants.

2. The defendants charged in the above-captioned indictment have not yet been arrested on the indictment and have not yet been informed that they are named in the indictment. The likelihood of apprehending defendants might be jeopardized if the indictment and arrest warrants were made publicly available before both defendants are taken into custody on the indictment.

3. Accordingly, the government requests that the indictment and arrest warrants in the above-entitled case, together with this ex parte application, and this Court's sealing order, be kept under seal until further order of the Court.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

DATED: December 19, 2013


WENDY T. WU